

1952.

File No. O. Smoke
Nuisance

Legal Department, ⁵²
A. BRANCH



Subject:—

Opinions under the
Smoke Nuisance Act, 1912

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Opinions under the Bombay
Smoke Nuisance Act, 1912.

1)	O.No. 201/11-1-52 ,	Re: Prohibition by Govt. in the city of Bombay, the erection of furnaces to be used for the calcining or smel- -ting of ores or minerals, or for the casting, puddling or rolling of iron or other metals or for conversion of pig iron into wrought iron. (Reconsideration of Addl. Secy's Opinion No. 13162 dt. 17-8-51).	1-4
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MS 14/6

Submitted.

2 By Govt. Notification, Labour Department No. 222/48, dated the 22nd June 1948 issued in exercise of the powers conferred by clause(b) of sub-section (1) of section 7 of the Bombay Smoke Nuisance Act, 1912 Govt. has prohibited within the City of Bombay, the erection of furnaces to be used for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals or for conversion of pig iron into wrought iron. In Additional Secretary's opinion No. 13162, dated the 17th August 1951 (expressed in the matter of the Indian Standard Metal Co. Ltd., Chinchpokli) it has been held that considering the preamble to the Act and the mischief sought to be remedied furnaces operated by electricity would not be covered within the definition of section 3(1). In other words this notification would have no application to electric furnaces. The Engineering Association of India in their letter dated the 14th August 1951 have criticised this notification as vague and ambiguous and have further observed that "even for the purpose of casting of iron and other metals" the mention of fuel is necessary or otherwise the notification will apply as such to electric furnaces used for the casting of iron or other metals which obviously emit no smoke; process smoke not being within the purview of the Smoke Nuisance Department". The Commissioner of Labour in his report dated the 24th October 1951 has sought to justify the prohibition on the ground that in the case of an iron foundry at the time of casting and thereafter smoke of varying density arises from the whole area occupied by the various castings and in no time

permeates the whole factory. So also in the case of calcining of metals especially non-ferrous alloys he has stated that the resultant smoke caused at the initial stage of the molten mixture gives off a deadly smoke that is impossible to check or control. Secretary, Labour and Housing Department in this case has observed ~~deathly smoke~~ thus:

"The language of section 7 seems clear in pointing to process smoke, since definite processes are mentioned. Perhaps the preamble may not be looked at if the section itself is clear. If so, the Act would cover furnace smoke as well as process smoke, and even electrical furnaces would be hit by section 7. R.L.A. may kindly advise in the light of this fresh information furnished by Commissioner of Labour".

The papers are accordingly forwarded to the R.L.A. for advice.

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LEGAL DEPARTMENT.

Bombay Smoke Nuisa-
nces Act, 1912.

Addl. Secretary's
opinion No. 13162,
dated 17-8-1951.

The circumstances mentioned by the
Commissioner of Labour in his letter dated the
24th October 1951 cannot widen the scope of the
Bombay Smoke Nuisances Act, 1912. The proceedings
underlying the Bill also confirm the view taken
by the Additional Secretary, Legal Department in
his opinion No. 13162, dated the 17th August 1951.

Id./..... 10/1

Additional Secretary to Government.

U.R. to L. & H.D. No. 30/- , dated the 11th January
1952. 301

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